IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE ELEVENTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.22462 of 1998

Between:

C.Yeganna, S/o Ramaiah,
R/o Kurnool District.

..... PETITIONER

AND

1 The Presiding Officer,
Industrial Tribunal cum Labour Court, Anantapur.
2 The Depot Manager, A.P.S.R.T.C.,
Nalgonda Depot, Kurnool District.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or Writ more particularly one in the nature of Writ of Certiorari and after calling for the records from the 1st respondent in I.D.No.242/94, and quash the award dt.10-6-96 in sofar as denying the backwages, attendent benefits and deferring annual increments for a period of 2 years as illegal, arbitrary and unjust and consequently direct the respondents to grant continuity of services, backwages, attendent benefits and increments to the petitioner and pass.

The Court made the following :

ORAL ORDER:

This Writ Petition is filed by the workman being aggrieved by the Award dated 10-6-1996 made in I.D.No.242 of 1994 on the file of the Industrial Tribunal-cum-Labour Court, Anantapur insofar as denying back wages, attendant benefits and further imposing the deferment of an annual increment with cumulative effect for a period of two years is concerned, while granting relief of reinstatement with continuity of service.

It is the case of the petitioner that he was appointed as a Conductor in the respondent-Corporation in the year 1989. He was discharging the duties to the satisfaction of one and all. While so, when he was conducting the bus bearing No.AAZ 9660 on the route Nandyal to G.C.Palem on 4-2-1994, a check was exercised at stage No.7 and the officials found certain irregularities. On the basis of the report of the checking officials, a charge sheet dated 7-2-1994 was issued enumerating the following charges:

1. For having failed to observe the rule 'issue and start' which constitutes misconduct in terms of clause (xxxii) of Reg.28 of APSRTC Employees (Conduct) Regulations,1963.

2. For having failed to issue tickets to a batch of 2 passengers, who boarded the bus at Sanathjutura and found alighting without tickets at Lingapuram Ex.stages 6,7 in spite of collecting the requisite fare of Rs.1.50 ps., each (in total Rs.3.00) at boarding point itself, which constitutes a misconduct in terms of clause 6(a) of Regulation 28 of APSRTC Employees (Conduct) Regulations,1963.

3. For having closed the tray Nos of all denominations in the S.R. upto stage No.7 without completing above ticket issues which constitutes a

misconduct in terms of clause (xxxii) of Reg.28 of APSRTC Employees (Conduct) Regulations,1963.

He submitted his explanation to the said charge sheet. Having not satisfied with the same, a detailed enquiry was ordered into the matter. The Enquiry Officer submitted a report holding him guilty of the charges. After completing the formalities, the disciplinary authority – 2nd respondent herein – removed him from service of the Corporation by Proceedings dated 26-4-1994. Aggrieved by the same, he filed an appeal and the same was also dismissed. Having no other option, he raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 and the same was taken on file in I.D.No.242 of 1994 by the Industrial Tribunal-cum-Labour Court, Anantapur. The Labour Court, after going through the material made available on record, came to the conclusion that the charges 1 and 3 are proved and charge No.2 is partly proved and assuming that there is some misconduct on his part, the removal from service is disproportionate to that of the misconduct alleged against him. Therefore, while exercising the powers under Section 11-A of the Act, the Labour Court directed the management to reinstate him with continuity of service, but without back wages, attendant benefits and further directed to impose punishment of stoppage of an annual increment with cumulative effect for a period of two years. The award of the Labour Court insofar as denying back wages, attendant benefits and further imposing the punishment of stoppage of two increments with cumulative effect is arbitrary and illegal.

A detailed counter affidavit is filed by the respondent-Corporation denying the allegations made by the petitioner and asserting that the past conduct of the petitioner was not good. Apart from that, the Labour Court itself has taken a lenient view of the matter. Therefore, the petitioner is not entitled for any further relief.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the entire material made available on record including the impugned Orders.

At the outset, I am of the opinion that the Labour Court has not committed any error in holding that the charges, though trivial in nature, were proved and in the given circumstances of the case, the punishment of removal from service is harsh and grave when compared to the gravity of the misconduct. Holding so, the Labour

Court granted the relief as noted above. It is interesting to notice that, in this case, the passengers against charge No.2 were examined in the domestic enquiry and they categorically stated that they have not tendered the fare to the petitioner and took the ticket, but when the authorities checked the bus they stated to have paid the fare due to fear that they would be fined and taken to the police station. Further, the TTI, who conducted the check, in his evidence, admitted that they have threatened the passengers to pay a fine of Rs.500/- and they would be taken to the police station. Under those circumstances, there is a possibility that the passengers had given spot statements that they paid fare due to fear of fine and police.

In view of this evidence, the finding of the Labour Court that the punishment of removal from service is disproportionate to that of the misconduct cannot be found fault with. But, the Labour Court, in the given circumstances of the case, ought not to have imposed further punishment of stoppage of an annual increment with cumulative effect for two years while denying the back wages and attendant benefits. Therefore, I am of the opinion that the Labour Court erred in imposing further punishment of stoppage of annual increment for two years with cumulative effect while denying the back wages and attendant benefits. I am of the view that imposition of two increments with cumulative effect is harsh and liable to be set aside and accordingly, set aside.

In the result, the award passed by the Labour Court is modified to read as under:

"The petitioner is entitled for reinstatement with continuity of service, but without back wages and without other attendant benefits. Further, it is made clear that the stoppage of increments as per the award of the Labour Court, which is given effect to, shall be revoked with effect from 30-8-2005. The petitioner is entitled for those increments to be added in his salary to be drawn from 1-9-2005".

Accordingly, the Writ Petition is disposed of. No order as to costs.

11-8-2005

prk